

Summary Minutes of the
Delta Protection Commission Meeting
Thursday, December 8, 2011

San Joaquin County WorkNet Building
Conference Room, First Floor
56 South Lincoln Street
Stockton, California 95203

ADMINISTRATIVE AGENDA

1. Call to Order/Flag Salute.

The meeting was called to order at 5:35 p.m.

2. Welcome Commission Members.

Chair Nottoli welcomed Commissioner Mark Johannessen. Commissioner Johannessen is a councilmember for the City of West Sacramento and will serve as the alternate for Commissioner Cabaldon.

3. Roll Call.

Present: Chair Nottoli; Commissioners, Eggman, Ferguson, Ferrara, Johannessen (for Cabaldon), McGowan, Nomellini (for Scriven), Piepho, Reagan, Ruhstaller, Shubert, Trujillo, van Loben Sels, and Vick.

Absent: Commissioner Bugsch

4. Public Comment. Opportunity for Members of the Public to Address the Commission on Items Not on the Agenda.

No one addressed the Commission.

CONSENT AGENDA

5. Approve Minutes of October 25, 2011

This item was removed from the Agenda.

6. Adopt Meeting Schedule for 2012, Including Alternate Dates

7. Receive Informational Update on the Commission's Special Committees

Commissioner Regan moved approval of the remainder of the Consent Agenda; Commissioner Ruhstaller seconded. The Consent Agenda was approved unanimously by voice vote.

REGULAR AGENDA

8. Receive Presentation from Phil Isenberg, Chair, Delta Stewardship Council (DSC), Regarding the Delta Plan.

Phil Isenberg, Chair of the Delta Stewardship Council gave an update on the status on the DSC and Delta Plan. Mr. Isenberg said the comment period on the fifth staff draft expanded from 45 days to 90 days. He also said the EIR has been released and comments are due by February 12, 2012, which DSC staff will evaluate. Mr. Isenberg said that at least 400 people have spoken before the DSC, there have been email campaigns, and most comments have come from the water community. He further said it is hoped to have the sixth staff draft within three weeks after all comments from the fifth draft are processed. The final should be available by April, 2012.

Commissioner Nomellini commented that language depicts the DSC as a super regulatory agency. Mr. Isenberg responded that authority is derived from the covered actions and appeals from the Bay Delta Conservation Plan. He also said that it is anticipated that the Commission will make comments to the EIR—and those comments should be feasible and/or consistent.

Commissioner Eggman asked for the definition of reduced reliance, and noted that Stockton has a lot of land in the Delta. Mr. Isenberg responded that reduced reliance is statutory language, as the Plan follows the dictates of the law. He further said that some aspects of the Delta Plan that are regulatory do not apply to incorporated cities.

Commissioner Reagan asked how the DSC looked at reliability under senior water rights. Mr. Isenberg responded that legislation gave no authority to modify existing rights of water; however most of it is subject to the Constitution. In addition, the DSC is aware of the fact that everyone wants stable funding sources, which cannot be guaranteed, as the north state has the same opportunities/constraints as the rest of the State.

Commissioner Rustahler said that the DSC/Plan should focus on short term and medium term solutions instead of a “silver bullet” of a canal.

Commissioner van Loben Sels stated that Chapter 8 is incomplete—it does not set out strategies or a plan to protect the Delta as a place. Mr. Isenberg responded that the ESP in part raises the question, and the Commission could make recommendations on the issue. He also said that the DSC would listen to ideas on regulations but no one has come forth.

Ann Johnston, Mayor City of Stockton stated that there is the potential for the DSC to be a super regulatory agency and she resented the fact that the DSC is trying to exert its authority before the plan is approved. She further stated that cities are looking at economic survival and are concerned about local governance. She said the sixth revision is coming out and there has been no change in the Plan, although comments have been submitted which have not been incorporated.

Barbara Barrigan-Parilla, Restore the Delta (RTD) said that RTD supports the mayor and all actions to restore, protect, and enhance the Delta. She said that if there is no certainty with the Delta Plan, then is it complete.

9. Receive Update From the ESP Team On the ESP Peer Review Panel and the Initial Findings.

Dr. Jeff Michael, University of the Pacific announced that the Peer Review took place in November and would be made public within a week. He announced the names of the panel members and said that the ESP team was pleased that the review panel validated the work done by the ESP team—particularly the quality of Chapters 4, 8, and 9. However, in accordance with the review panel’s findings, several changes would be made to the ESP including revisions on emergency response and evacuation planning, and more substantiation for cost estimates for levee improvements.

Lysa Voight, Sacramento Regional Wastewater Treatment Plant, stated that while she appreciated the opportunity to provide comments on the ESP, the comment period is unclear. Mike Machado responded that the Commission held numerous public hearings and adopted the draft ESP with amendments in October; therefore no more comments would be accepted.

Chair Nottoli asked would there be another time to receive comments. Mike Machado responded that comments could be made when the document is transmitted to the DSC; however, there is no guarantee that the comments would be incorporated. Commissioner Nomellini stated that since the Commission would have to make changes before the final document is approved, comments should be accepted.

10. Receive Presentation From California State Parks On the Recreation Proposal for the Sacramento-San Joaquin Delta and Suisun Marsh.

Cheryl Essex, State Parks presented a slide presentation on the State Parks recreational proposal for the Delta. The proposal discussed the proposed expansion of state recreational areas and outlined the types of recreational opportunities such as boating, hiking wildlife viewing, and fishing.

Commissioner Vick stated that she agreed with the report but had concerns regarding base camps, and facilities such as Brannan Island, which are slated for closure. She said places like Brannan Island have not been a priority for State Parks and would never reopen once they were closed.

Commissioner Nomellini said that state Parks should keep what is going, and enhance and build with private people that are already struggling.

Commissioner Piepho asked why State Parks is interested in restoration. Ms. Essex responded that certain areas are prime for expanding recreation and the public should have access.

Lisa Kirk, Bethel Island, asked that State Parks work with local business owners to help with tourism in the Delta.

11. Discuss Primary Zone Study Recommendations, Approved December 2010, to the Legal Delta Boundaries Pursuant to SB X7-1.

Mike Machado announced that there are problems with the Primary Study as more work needs to be done and the study needs to be amended.

A. Commission Discussion

Chair Nottoli stated that he concurs that more work needs to be done.

Commissioner Vick stated that while the report fulfills the legislative requirement it is know that more work needs to be done on the report.

Commission Piepho asked the staff write a clarification letter to the Legislature that the Commission may need more time to work on the report. She also said that any work done on the Study be done at the committee level.

Chair Nottoli moved to table the Primary Zone discussion and have the Primary Zone Study Committee work any amendments to the Study; Commissioner McGowan seconded. The motion was approved unanimously by voice vote.

B. Public Comment

Lisa Kirk asked that the Commission further review the Primary Zone and Levees. She also asked that Bethel Island be brought into the Primary Zone.

C. Action: Direct Staff to Implement the Recommendations of the Primary Zone Study

Chair Nottoli moved to table the discussions on the Primary Zone Report and bring back before the Primary Zone Committee; Commissioner McGowan seconded. The motion was approved unanimously.

12. Receive Update On the Draft National Heritage Area Feasibility Study for the Sacramento-San Joaquin Delta.

Alex Westhoff presented a short slide presentation on the NHA that outlined the proposed themes, midsession, vision and goals, and management entity, boundary alternatives and local protection measures.

A. Commission Discussion

Commissioner Vick stated that she had concerns with the Feinstein map. She said there is fear the West Delta will get any funding. She further stated that if Rio Vista is not included in the NHA then the City will not support it.

Commissioner Piepho clarified that all five Delta counties gave input for the boundaries, and Contra Costa County has no problem with Rio Vista being placed within the boundaries of the NHA.

Commissioner McGowan noted that Clarksburg remains ambivalent on being included in the NHA as it is unsure about the advantage.

Commissioner van Loben Sels asked if it was possible for Congress to modify the NHA. Mr. Machado responded that a modification would not happen because the NHA is locally and stakeholder driven. He said that staff would return with a map depicting Rio Vista being included in the NHA.

B. Public Comment

Linda Smith, Carquinez Straight Preservation asked that Map # 2 be considered. She said the Preservation would work with the Commission to help raise money and do what it could.

13. Discuss the Delta Stewardship Council's Delta Plan, the Delta Reform Act (SB X7-1), and Possible Recommendations or Actions by the Commission.

Mayor Johnston asked that the Commission review a resolution submitted by San Joaquin County stakeholders that addresses water supply, land use, flood control and other core concepts that are concerning with the Delta Plan.

Chair Nottoli moved that the letter be placed on the calendar for further review and action; Vice Chair Regan seconded. The motion was approved unanimously by voice vote.

14. Receive Report From the Executive Director, Including Informational Updates on Delta Stewardship Council and Delta Conservancy Activities and Other Delta Initiatives.

There was no report.

15. Comments and Announcements From Members of the Commission.

Commissioner Ruhstaller thanked Commissioner Piepho for her Op-ed piece in the Contra Costa Times.

16. ADJOURN.

The meeting was adjourned at 9:30 p.m.